

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1611
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Family Services March 6, 2008 with recommendation that House Committee Substitute for House Bill No. 1611 Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4146L.02C

AN ACT

To amend chapter 491, RSMo, by adding thereto one new section relating to a children's bill of courtroom rights.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 491, RSMo, is amended by adding thereto one new section, to be known as section 491.725, to read as follows:

491.725. 1. As used in this section, the following terms shall mean:

(1) "Child", a person less than eighteen years of age;

(2) "Comfort item", a favorite toy, stuffed animal, blanket, or any other object whose presence helps the child calm himself or herself;

(3) "Support person", an adult who is known to the child and with whom the child feels comfortable.

2. In order to protect children from confusing, even abusive practices while testifying in court, and in order to facilitate testimony that is fair and accurate, the following children's bill of courtroom rights shall apply to all children testifying in court:

(1) A child testifying at a judicial proceeding has the right to understand the oath which is being administered to such child. Whether a competency hearing or a trial itself, any oath that is required of a child shall be administered in a developmentally appropriate manner;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (2) A child testifying at a judicial proceeding has the right to understand all the
15 questions asked of such child. Accordingly, judges and attorneys shall question children
16 in a developmentally and linguistically appropriate manner;

17 (3) A child has a right to testify at a time of day when such child is best able to
18 understand the questions and otherwise handle the stresses of testifying. Accordingly,
19 courts shall take into consideration nap time, medications, and other factors that influence
20 a child's ability to testify. Upon its own motion or upon the motion of a party, a court may
21 order the court testimony of a child to be limited in duration or include frequent breaks
22 in accordance with the developmental maturity of the child;

23 (4) A child testifying at or attending a judicial proceeding has a right to a comfort
24 item. The court, at its discretion, may place limitations on the size or type of comfort item;

25 (5) A child testifying at or attending a judicial proceeding has a right to the
26 presence of a person to provide emotional support to the child. The court, at its discretion,
27 may allow the support person to remain in close physical proximity to or in contact with
28 the child while the child testifies, provided such person shall not obscure the child from the
29 view of the defendant or the trier of fact. A support person shall not provide the child with
30 an answer to any question directed to the child during the course of the child's testimony
31 or otherwise prompt the child;

32 (6) A child testifying at a judicial proceeding has a right to be questioned in a
33 manner that is neither intimidating nor frightening. Accordingly, the court shall instruct
34 counsel to not raise his or her voice when questioning a child or presenting argument or
35 otherwise engage in conduct that a child may interpret as an angry confrontation; and

36 (7) A child testifying at a judicial proceeding has a right to be comfortable when
37 testifying. Accordingly, upon its own motion or the motion of a party, the court may make
38 reasonable accommodations to ensure the comfort of the child witness, such as the
39 following measures:

- 40 (a) Adjusting the layout of the courtroom;
41 (b) Conducting the proceedings outside the normal courtroom; or
42 (c) Relaxing the formalities of the proceedings.

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